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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 SOKHA KONG,  
11 Petitioner,  
12 v.  
13 UNITED STATES OF AMERICA,  
14 Respondent.

**\*E-FILED - 11/29/07\***

CASE NOS. C-02-01964-RMW  
CR-98-20005-RMW

ORDER DENYING MOTION TO  
CORRECT, SET ASIDE OR VACATE  
SENTENCE

16  
17 Sokha Kong moved on April 22, 2002 to correct, set aside, or vacate his sentence  
18 under 28 U.S.C. § 2255 for alleged ineffective assistance of counsel. He claims that  
19 counsel was ineffective for failing to argue that he should receive credit for the time he had  
20 served on related state charges (but which involved different robberies) at the time he was  
21 sentenced for his federal violations. Movant/defendant was not prejudiced by the alleged  
22 failure to argue for the credit as the court was fully aware of the facts at the time it imposed  
23 the federal sentence. The court imposed a low end sentence to run concurrently with his  
24 state sentence except for the 60 month portion required to run consecutively under 18  
25 U.S.C. § 924(c). Even assuming defense counsel failed to make the argument Kong  
26 suggests he should have made, there is no reasonable probability that, but for counsel's  
27 failure, the result of the proceeding would have been different. Therefore, the petition is  
28 summarily denied pursuant to Rule 4(b) of the Rules Governing Section 2255 Proceedings.

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2 The Clerk may close the file.  
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4 DATED: 11/27/07  
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*Ronald M. Whyte*

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6 RONALD M. WHYTE  
7 United States District Judge  
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1 Copy of Order E-Filed and Mailed to:

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7 San Francisco, CA 94102

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